

(5) An analysis of the potential for harmful interference within the protected service area, as defined in paragraph (d) of this section, of any authorized or previously proposed station(s) described in paragraph (d) of this section.

(c) Existing licensees and prospective applicants are expected to cooperate fully in attempting to resolve problems of potential interference before bringing the matter to the attention of the Commission.

(d) Each authorized or previously-proposed applicant, construction permittee, or licensee who proposes to lease excess capacity to a "wireless cable" operator pursuant to § 74.931(e)(2) must be protected from harmful electrical interference for the hours of such transmissions within a protected service area as defined at § 21.902(d) of this chapter. Alternatively, an applicant, permittee, or licensee may select a 56.33 km (35 mile) circular protected area centered at the geographic latitude and longitude of the transmitting antenna site. Applicants are expected to cooperate fully and in good faith with an authorized or previously-proposed applicant, construction permittee, or licensee who leases or proposes to lease excess capacity to a "wireless cable" operator pursuant to § 74.931(e)(2), in attempting to resolve problems of potential interference to such operations before bringing the matter to the attention of the Commission.

(e) Each ITSF applicant, permittee, or licensee who wishes to claim the protection described at paragraph (d) of this section must request such protection in writing in its initial application for a new station, in an application amendment, or by modification application. Such protection shall be applied solely with regard to applications filed subsequent to the request for a protected service area.

(f) With respect to protected service area proposals, two applications will be regarded as mutually exclusive if they are:

- (1) Submitted during the same filing window;
- (2) Otherwise grantable;
- (3) Mutually exclusive only because either or both applicants request a pro-

tected service area. However, if an applicant in such a situation shows that the resulting interference would occur solely over water, the applications will not be considered to be mutually exclusive.

[28 FR 13731, Dec. 14, 1963, as amended at 50 FR 26758, June 28, 1985; 51 FR 9799, Mar. 21, 1986; 55 FR 46013, Oct. 31, 1990; 56 FR 57600, Nov. 13, 1991; 58 FR 44951, Aug. 25, 1993; 60 FR 20246, Apr. 25, 1995; 60 FR 57368, Nov. 15, 1995]

§ 74.910 Part 73 application requirements pertaining to ITFS stations.

The following rules are applicable to ITFS stations.

Sec.

- 73.3500 Application and report forms.
- 73.3511 Applications required.
- 73.3512 Where to file; number of copies.
- 73.3513 Signing in applications.
- 73.3514 Content of applications.
- 73.3517 Contingent applications.
- 73.3519 Repetitious applications.
- 73.3533 Application for construction permit or modification of construction permit.
- 73.3534 Application for extension of construction permit or for construction permit to replace expired construction permit.
- 73.3536 Application for license to cover construction permit.
- 73.3542 Application for temporary or emergency authorization.
- 73.3561 Staff consideration of applications requiring Commission action.
- 73.3562 Staff consideration of applications not requiring action by the Commission.
- 73.3597(c)(2) Procedures on transfer and assignment applications.
- 73.3566 Defective applications.
- 73.3568 Dismissal of applications.
- 73.3587 Procedure for filing objections.
- 73.3598 Period of construction.
- 73.3599 Forfeiture of construction permit.

The applicability of other rules in part 73, where appropriate, is not precluded by this section.

[50 FR 26759, June 28, 1985, as amended at 60 FR 20247, Apr. 25, 1995]

§ 74.911 Processing of ITFS station applications.

(a) Application for ITFS stations are divided into two groups:

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. These applications are subject to the provisions of paragraph (c) of this section. A major change for an ITFS station will be any proposal to add new

channels, change from one channel (or channel group) to another, change polarization, increase the EIRP in any direction by more than 1.5dB, increase the transmitting antenna height by 25 feet or more, or relocate a facility's transmitter site by 10 miles or more. However, the Commission may, within 15 days after the acceptance of an application, or 15 days after the acceptance of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change, and subject to the provisions of paragraph (c) of this section.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) A new file number will be assigned to an application for a new station or for major changes in the facilities of an authorized station, when it is amended so as to effect a major change, as defined in paragraph (a)(1) of this Section, or result in a situation where the original party or parties to the application do not retain control of the applicant as originally filed. An application for change in the facilities of any existing station will continue to carry the same file number even though (pursuant to Commission approval) an assignment of license or transfer of control of such licensee or permittee has taken place if, upon consummation, the application is amended to reflect the new ownership.

(c)(1) New and major change applications for ITFS stations will be accepted only on dates specified by the Commission. Filing periods will be designated by the Commission in a Public Notice, to be released not fewer than 60 days before the commencement of the filing period. Qualified parties will have no fewer than 5 business days within which to submit their applications. After termination of the filing period, the Commission shall release a Public Notice with a list of applications filed in the window and provide no fewer than 30 days for the submission of petitions to deny. Uncontested applications that are not mutually exclusive with any other application or licensed facility, and are found to be acceptable, shall be granted. Mutually exclu-

sive applications shall be evaluated pursuant to the comparative selection process set forth in §74.913 as herein amended.

(2) The requirements of this section apply to a wireless cable entity requesting to be licensed on ITFS frequency pursuant to §74.990. The application of such a wireless cable entity shall be included in the Public Notice released after the termination of the filing period.

(d) Those applications, other than mutually exclusive applications, which upon examination meet other pertinent requirements and would serve the public interest, convenience and necessity will be granted. Mutually exclusive applications will be processed pursuant to the provisions in §74.913.

[50 FR 26759, June 28, 1985, as amended at 55 FR 46013, Oct. 31, 1990; 60 FR 20247, Apr. 25, 1995]

§ 74.912 Petitions to deny.

(a) Any party in interest may file with the Commission a petition to deny any application for new facilities or major changes in the facilities of authorized stations, provided such petitions are filed by the date established pursuant to the cut-off provisions of §74.911(c). In the case of all other applications, except those excluded under section 309(c) of the Communications Act of 1934, as amended, petitions to deny must be filed not later than 30 days after issuance of a public notice of the acceptance for filing of the applications. In the case of applications for renewal of license, petitions to deny may be filed after the issuance of a public notice of acceptance for filing of the applications and up until the first day of the last full calendar month of the expiring license term.

(b) The applicant file an opposition to any petition to deny, and the petitioner a reply to such opposition in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof. The times for filing such oppositions and replies shall be those provided in §1.45 of this chapter.

(c) Only petitions to deny filed against a tentative selectee (§74.913) will be considered. If the petition does not present substantial and material